

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NICOLE CRAINE

Plaintiff,

- against -

COX MEDIA GROUP, LLC

Defendant.

Docket No. 18-cv-2908

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Nicole Craine (“Craine” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Cox Media Group, LLC (“Cox” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and publishing of a copyrighted photographs related to the special congressional election in Atlanta, GA which gained national attention, owned and registered by Craine (the “Photographs”). Accordingly, Craine seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 et seq. *eq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Craine is a professional Brooklyn-based photographer having a usual place of business at 120 Thames Street Unit 304, Brooklyn, NY 11237.

6. Upon information and belief, Cox is a foreign corporation duly organized and existing under the laws of Delaware with a place of business at 555 Sunrise Highway, West Babylon, NY 11704.

7. Upon information and belief, at all times material hereto, Defendant has owned, controlled and operated the website at the URL: <http://www.mjajc.com> (the “Website”).

8. Cox is a for-profit business.

9. The Website publishes entertainment and news articles and photographs.

10. The Website contains substantial advertising, including adjacent to the Defendant’s unauthorized use of the Photographs.

11. Defendant derives substantial revenue from the advertising on the Website.

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

12. Craine is the author, copyright claimant, and owner of all rights in the Photographs. A true and correct copy of the Photographs is attached hereto as Exhibit A.

13. Craine is the owner of all right, title and interest in and to the Photographs, including the copyright thereto, which was licensed for publication by the NY Times.

14. The Photographs were registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-076-135, effective as of November 20, 2017. A true and correct copy of the registration certificate for Copyright Registration Number VA 2-076-135 is attached hereto as Exhibit B.

B. Defendant's Infringing Activities

15. Cox, on the Website, published an article featuring the Photographs entitled *Bill Torpy at Large: This guy's spending his Ossoff in the 6th District*. See <https://www.myajc.com/news/local/bill-torpy-large-this-guy-spending-his-ossoff-the-6th-district/Bk8FiZbBLonCzKqDrvL1AL/> (the "Article"). A true and correct copy of screenshots of the Article showing Defendant's unauthorized use of the Photographs are attached hereto as Exhibit C.

16. Defendant did not license the Photographs from Plaintiff for its Website or any other use.

17. Defendant did not have Plaintiff's permission or consent to publish the Photographs on its Website.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST Cox)
(17 U.S.C. §§ 106, 501)

18. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-17 above.

19. Defendant infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

20. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

21. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

22. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

23. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Cox be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Defendant Cox be ordered to remove the Photographs from its Website;
3. That, with regard to the First Claim for Relief, Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs;
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
May 16, 2018

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